

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKAUSTIN R. POST, *professionally known as POST MALONE,*

Plaintiff,

v.

TYLER ARMES,

Defendant.

Case No. 20 Civ. 02877 (ALC)

STIPULATION AND ORDER TO TRANSFER VENUE

Plaintiff Austin R. Post p/k/a Post Malone (“Post”) and Defendant Tyler Armes (“Armes”) (collectively, the “Parties”) hereby submit, through their respective undersigned counsel, the following Stipulation and Proposed Order to Transfer Venue:

WHEREAS, on April 7, 2020, Post commenced the above-captioned action (the “New York Action”) against Armes;

WHEREAS, also on April 7, 2020, Armes commenced a related action against Post, among other parties, in the United States District Court for the Central District of California, *Armes v. Post, et al.*, Case No. 2:20-CV-03212-ODW-PJW (the “California Action”);

WHEREAS, on July 20, 2020, Armes filed a motion to dismiss this New York Action for lack of personal jurisdiction and improper venue, pursuant to Fed. R. Civ. P. 12(b)(2) and (3), or to transfer this New York Action to the Central District of California pursuant to 28 U.S.C. § 1404(a), which motion is fully briefed and pending before this Court (the “Pending Motion”);

WHEREAS, on October 19, 2020, the Central District of California issued a decision in the related California Action determining, among other things, upon consideration of 28 U.S.C. § 1404(a), that such California Action will proceed in that court;

WHEREAS, counsel for the Parties have met and conferred and, in light of the decision in

the California Action and the inefficiencies inherent in litigating their related claims in two separate courts, the Parties have jointly agreed to stipulate to the transfer of this New York Action to the Central District of California pursuant to 28 U.S.C. § 1404(a);

WHEREAS, the Parties have agreed that, promptly following the transfer of this New York Action to the Central District of California, the Parties will file a joint application for the two actions to be consolidated, and for Post's Complaint to be deemed to constitute a Counterclaim in that consolidated action;

WHEREAS, the Parties' agreement to the foregoing is without waiver of, or prejudice to, their arguments and assertions in their motion papers in the New York Action and California Action; and

WHEREAS, 28 U.S.C. § 1404(a) provides that, “[f]or the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to . . . any district or division to which all parties have consented,”

NOW, THEREFORE, the Parties, by and through their respective undersigned counsel, hereby stipulate and request that the Court enter an Order transferring this New York Action, pursuant to 28 U.S.C. § 1404(a), to the Central District of California, Western Division, and denying as moot all other relief sought by Armes in his Pending Motion.

Dated: October 29, 2020

MITCHELL SILBERBERG & KNUPP
LLP

LAVELY & SINGER P.C.

By: Jeffrey M. Movit / MBL

Christine Lepera
Jeffrey M. Movit
Marissa B. Lewis
437 Madison Avenue, 25th Floor
New York, New York 10022
Telephone: (212) 509-3900
Facsimile: (212) 509-7239

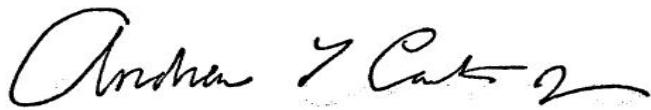
By: Andrew B. Brettler / MBL

Andrew B. Brettler
2049 Century Park East, Suite 2400
Los Angeles, California 90067
Telephone: (310) 556-3501
Facsimile: (310) 556-3615

Attorneys for Defendant Tyler Armes

*Attorneys for Plaintiff Austin R. Post p/k/a
Post Malone*

SO ORDERED:



HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE

October 30, 2020